

ARTICLE 2

DEFINITIONS*

*Note: For definitions applicable to Neighborhood Districts and to Article 80, see Article 2A.

SECTION 2-1. **Meaning of Certain Words and Phrases.** As used in this code, the following words and phrases shall have the meanings given in the following clauses, unless a contrary intention clearly appears:

(1) "Accessory building", a structure devoted exclusively to a use accessory to a main use of the lot.

(2) "Accessory use", a use customarily incident to, and on the same lot as, a main use.

;(2AA) "Airport-related remote parking facility," a parking lot or parking garage from which transportation service is offered to airport premises.

(;As inserted on November 21, 1996.)

;(2A) "Amusement game machine", a machine, apparatus, device, or mechanism, by which entertainment requiring or involving participation therein or the use of skill therein by a player or patron is furnished for profit, including, but not exclusively, video games and pinball machines, and excluding pool tables, sippio tables, billiard tables, and bowling alleys. An amusement game machine may be, but need not be, controlled by a coin, token, or slug.

(;As inserted on June 2, 1983)

(3) "Apartment hotel", a building primarily for persons who have their residence therein, containing four or more apartments which do not have kitchens.

;(3A) "Art use", the creation, manufacture, or assemblage of visual art, including two- or three-dimensional works of fine art or craft, or other fine art objects created, manufactured, or assembled for the purpose of sale, display, commission, consignment, or trade by artists or artisans; or classes held for art instruction.

(;As inserted on February 1, 1989)

;(3B) "Artists' mixed-use", the use of all or a portion of a building for both art use and habitation.

(;As inserted on February 1, 1989)

; (3C) "Bank, drive-in", a bank which provides, as all or part of its services, one or more teller's windows for the use of persons while seated in motor vehicles.

(;As inserted on November 30, 1973, and amended on April 11, 1979 and February 1, 1989)

; (3D) "Basement", that portion of a building which is more than thirty-five percent (35%) of the height of the story below grade.

(;As inserted on September 23, 1987, and amended on February 1 and March 30, 1989)

; (3E) "Bay window", a fenestrated projection from the face of a building entirely contained within the following dimensions: (a) depth not to exceed five feet, (b) width not to exceed eighteen feet or seventy percent of the width of the building, whichever is the lesser, and (c) each side to form an angle with the face of the building of not less than one hundred thirty-five degrees. (Illustrated in Appendix 2.)

(;As amended on February 17, 1971, November 30, 1973, September 23, 1987, and February 1, 1989)

(4) "Block", the lot or lots fronting on the same side of the same street between two streets intersecting such street on such side with no other such intersecting street intervening.

(5) "Board of Appeal", the Board of Appeal in the Building Department of the City.

; (6) "Boarding house", any dwelling (other than a hotel, motel, apartment hotel, dormitory, fraternity or sorority house) in which board is provided to five or more persons who are not within the second degree of kinship.

(;As amended on February 3, 1966)

(7) "Building", a structure forming a shelter for persons, animals or property and having a roof, exclusive, however, of such frameworks and tents as are customarily used exclusively for outdoor carnivals, lawn parties, or like activities. Where the context allows, the word "building" shall be construed as though followed by the words "or part thereof".

; (7A) "Building line", the line in conformity with the alignment of existing buildings in the same block, at a distance from the street line equal to the yard depth occurring most frequently on that block, as measured by lot widths along the street line. The distance from the street line to the building line shall be calculated in accordance with the method described in Section 18-2.

(;As inserted on April 12, 1987)

; (8) "Building Commissioner", the Building Commissioner, or successor, including but not limited to the Commissioner of Inspectional Services, of the City.

(;As amended on October 12, 1988)

; (8A) "Check cashing business," an establishment offering cash in exchange for checks, money orders, or the like, where the transaction involves a fee or an exchange at other than face value and is not principally in payment for the purchase of goods or services. "Check cashing business" does not include a bank or automatic teller machine.

(;As inserted on October 6, 1994)

(9) "City", the City of Boston.

(10) "Clinic", a place for the medical or similar examination and treatment of persons as outpatients.

(11) "Commission", the Zoning Commission of the City.

; (11A) "Container redemption center," a facility that is registered with the Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Solid Waste Management, or any successor agency thereto, as a facility for the redemption of beverage containers subject to deposit.

(;As inserted on September 30, 1993)

; (11B) "Day care center", any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under seven years of age, or children under sixteen years of age if such children are children with special needs as defined in Massachusetts General Laws, Chapter 28A, Section 9, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery, or

related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

(;As inserted on October 12, 1988)

;(11C) "Dormitory", any dwelling (other than a fraternity or sorority house) occupied primarily as a place of temporary abode by persons attending education institutions.

(;As inserted on February 3, 1966, and amended on October 12, 1988)

;(11D) "Dumpster", any dumpster, container, drum or compactor greater than one cubic yard in volume used for the storage of waste, refuse, garbage, construction debris or similar material. For the purpose of this Code, a dumpster shall be treated as an Accessory or Ancillary use where the dumpster is serving as the primary means for disposal for a Main Use, including the storage of construction debris generated on the respective lot on which said Main use is located, and a dumpster or storage of dumpsters shall be treated as an Accessory or Ancillary use when used in conjunction with the ongoing operation of a permitted site with explicit legal use and occupancy as a dumpster repair facility, waste hauling contractor yard, or site assigned and licensed solid waste management facility.

(;As inserted on September 18, 2000)

(12) "Dwelling", a building or structure used in whole or in part for human habitation.

(13) "Dwelling, detached", a dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

(14) "Dwelling, multi-family", a building containing three or more dwelling units, but not including a motel.

(15) "Dwelling, semi-detached", a dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

;(16) "Dwelling unit", a room or group of rooms forming a habitable unit for one family, or one group residence limited as defined in clause (22B) of this Section 2-1, with facilities used or intended to be used for living, sleeping,

cooking and eating; but not including any use contained in artists' mixed-use space as defined in clause (3B).

(;As amended on February 1, 1989 and February 22, 1991)

(17) "Erect", to construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

(18) "Extend", to increase in area or volume.

(;19) "Family", one or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family, except that a group residence, limited, as defined in clause (22B) of this Section 2-1 shall be deemed a family.

(;As amended on February 22, 1991)

(;19A) "Family day care home", any dwelling unit which on a regular basis receives, for temporary custody and care during part or all of the day, children under seven years of age, or children under sixteen years of age if such children are children with special needs as defined in Massachusetts General Laws, Chapter 28A, Section 9; provided, however, in either case, that (1) the unit is licensed by the Massachusetts Office of Child Care Services (or a successor agency responsible for the state licensing of home-based child care facilities) for the number of participating children, and (2) the total number of children under sixteen in a family day care home shall not exceed ten, including participating children living in the dwelling unit. Family day care home shall not mean a dwelling unit used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

(;As inserted on October 12, 1988, and amended on May 30, 2000)

(20) "Floor area ratio", the ratio of gross floor area of a structure to the total area of the lot.

(;21) "Floor area, gross", the sum of areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding (a) garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade, (b) basement and cellar areas devoted exclusively to uses accessory to the operation of the structure, and (c) areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air

conditioning equipment, plumbing, electrical equipment, laundry facilities and storage facilities, provided, however, that in an H-2-45, H-2-65, H-3-65, L-2-65 or B-3-65 district no area in an existing structure previously included in gross floor area and no area in any addition to an existing structure, except areas not used or designed to be used for human occupancy, such as attics, basements, cellars or space under sloping eaves, shall be excludable from gross floor area as area for storage facilities or laundry facilities.

(;As amended on September 27, 1973, March 5, 1980, October 31, 1980, and June 16, 1982)

;(22) "Grade", the average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except as otherwise provided in Section 16-8 as such section pertains to the restricted roof structure district in the North End, or in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.

(;As amended on September 23, 1987 and March 30, 1989)

;(22A) "Group care residence, general", premises for the residential care or supervision (but not including custodial care) of ex-alcoholics, ex-drug addicts, pre-release or post-release convicts or juveniles under seventeen years of age who are under the care of correctional agencies of the Commonwealth, but not including the residential care of mentally ill, mentally retarded, or physically handicapped persons if such care is licensed, regulated or operated by the Commonwealth of Massachusetts or operated by a vendor under contract with the Commonwealth.

(;As inserted on November 9, 1978)

;(22B) "Group residence, limited", premises licensed, regulated, or operated by the Commonwealth of Massachusetts or operated by a vendor under contract with the Commonwealth for the residential living, care, or supervision in any single dwelling unit of five or more mentally ill or mentally retarded persons or persons with disabilities.

(;As inserted on August 10, 1979, and amended on February 22, 1991)

;(23) "Height of building", the vertical distance from grade to the top of the highest point of the roof beams of a flat roof, or the mean level of the highest gable or of the slope of a hip roof, excluding roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, provided that the total area of such roof structures and penthouses

does not exceed 33-1/3 percent of the roof area; except that, for any Proposed Project that (a) is subject to Article 31 and (b) is within a downtown district established under Section 3-1C, "height of building" means the vertical distance from grade to the top of the structure of the last occupied floor. A mansard roof shall be considered a flat roof.

(;As amended on July 9, 1973, September 23, 1987, and June 23, 1989)

;(24) "Hotel", a building (other than a dormitory) containing four or more apartments without kitchens, or containing sleeping accommodations for ten or more persons, primarily the temporary abode of persons who have their residences elsewhere.

(;As amended on February 3, 1966)

;(24A) "Inspectional Services, or Inspectional Services Department, Commissioner of": See clause (8).

(;As inserted on October 12, 1988)

;(24AA) "Institutional Master Plan Review", the review described as Institutional Master Plan Review in Section 80D-1.

(;As inserted on May 9, 1996.)

;(24AAA) "Large Project Review", the review described as Large Project Review in Section 80B-1.

(;As inserted on May 9, 1996.)

;(25) "Lodging house", any dwelling (other than a boarding house, dormitory, fraternity, sorority house, hotel, motel or apartment hotel) in which living space, without kitchen facilities, is let to five or more persons who are not within the second degree of kinship.

(;As amended on February 3, 1966)

;(26) "Lot", a parcel of land including land under water, whether or not platted, in single ownership, and not divided by a street.

(;As amended on April 14, 1967)

(27) "Lot area", the horizontal area of the lot exclusive (a) of any area in a street or private way open to public use, and (b) of any fresh-water area more than ten feet from the shoreline, and (c) of any salt-water area below the mean high-tide line.

(28) "Lot, corner", a lot with boundaries abutting on, and meeting at the intersection of, two streets when the lines of such boundaries form within such lot at such intersection an angle of not more than 135 degrees. In the case of a curved boundary, the tangent to such curved boundary at its point of intersection with another boundary of the lot shall be deemed to be the line of such boundary for the purposes of this definition.

;(29) "Lot, depth", the horizontal distance between the front and rear lot lines measured by the length, within the lot, of a straight line connecting the midpoint of a straight line between the foremost points of the side lot lines with the midpoint of a straight line between the rearmost points of the side lot lines.

(;As amended on April 14, 1967)

(30) "Lot line, front", the line separating the lot from the street. The owner of a lot abutting on two or more streets may designate as the front lot line whichever of the two widest streets he chooses.

(31) "Lot line, rear", the line which most nearly qualifies as the line most distant and opposite from the front lot line; where the lot is irregularly shaped, a line perpendicular to the mean direction of the side lot lines, and at least ten feet in length within the lot.

;(32) "Lot width", the shortest horizontal distance between the side lot lines measured perpendicular to the mean direction of two straight lines, one between the foremost and rearmost points of one side lot line, and the other between the foremost and rearmost points of the other side lot line.

(;As amended on April 14, 1967)

;(32A) "Mansard roof", a sloping roof having a pitch of more than sixty (60) degrees to the horizontal. The floor under a mansard roof shall be considered a story as defined in clause (42).

(;As inserted on September 23, 1987)

;(32B) "Maritime-dependent industrial uses", marine terminals and related structures for the transfer between ship and shore of goods and/or passengers transported in waterborne commerce; facilities associated with marine terminals for the storage of goods transported in waterborne commerce; manufacturing facilities relying on the bulk receipt of shipments of goods by waterborne commerce; wharves, piers, docks, and processing and storage facilities for the commercial fishing industry; dry docks and other facilities related to the construction, servicing, storage, maintenance, or repair of vessels and other marine structures; and other docks, piers, wharves, berths, dolphins, or mooring

facilities for tow boats, barges, dredges, ferries, commuter boats, water buses, water taxis, or other vessels engaged in waterborne commerce, port operations, or marine construction. MER districts contain, or are adjacent to, (a) navigable channels of 12 feet or more in depth at mean low tide; or (b) tidelands and associated lands abutting such channels that by their topography, size, and relationship to residential neighborhoods are suited for maritime-dependent industrial use. Where an area is being used or, within the five (5) years prior to the establishment of the MER district in this code, has been used for a maritime-dependent industrial use, this requirement is deemed to have been met.

(;As inserted on August 30, 1988)

;(32C) "Mobile home", a dwelling, other than a recreational vehicle, that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation.

(;As inserted on March 26, 1982, and amended on September 23, 1987 and August 30, 1988)

;(32D) "Mobile home park", a parking space for two or more mobile homes used as dwellings.

(;As inserted on June 29, 1984, and amended on September 23, 1987 and August 30, 1988)

(33) "Motel", a hotel primarily for transients travelling by automobile, with a parking space on the lot for each lodging unit, and with access to each such unit directly from the outside.

;(33A) "Neighborhood Council", any neighborhood-based council established by the Mayor to render advice to neighborhood residents, the Mayor, city departments, and the Boston Redevelopment Authority regarding any municipal issues of neighborhood concern.

(;As inserted on February 1, 1989)

(34) "Nonconforming use", a use of a structure or lot that does not conform to a regulation prescribed by this code for the district in which is it located; provided that such use was lawfully in existence on the effective date of this code or, in the case of a use made nonconforming by an amendment of this code, on the effective date of such amendment.

(35) "Occupied", shall include the words "designed, arranged, or intended to be occupied".

(36) "Parapet line", a horizontal line at the mean height of the wall of the building nearest to, and substantially parallel with, the lot line from which a setback is being measured.

;(36AA) "Planned Development Area Review", the review described as Planned Development Area Review in Section 80C-1.

(;As inserted on May 9, 1996)

;(36A) "Planning and Zoning Advisory Committee", any neighborhood-based committee appointed by the Mayor to render advice to neighborhood residents, the Mayor, city departments, and the Boston Redevelopment Authority regarding land use planning and zoning issues.

(;As inserted on February 1, 1989)

(37) "Public open space", an open space in public ownership devoted or to be devoted to a public use with only minor accessory buildings, if any. No structure that exceeds twenty feet in height or two thousand square feet in gross floor area shall be considered to be a part of such public open space. "Public open space" shall be construed to include a street.

(38) "Restricted, more, and less", a use district is "more restricted" if it is listed earlier in Section 3-1 and "less restricted" if listed later in said section.

;(38A) "Rounding numbers, rule for", when a decimal must be rounded to the nearest whole number, as in the case of off-street parking requirements, or to the nearest foot, under Section 18-2 (as most recently amended on October 22, 1974), and when the only digit dropped is .5, then if the last digit retained is an even number, it shall be left unchanged; but if the last digit retained is an odd number, it shall be increased to the next higher digit. In the case of rounding to the nearest half foot under Section 18-2 (as most recently amended on October 22, 1974), if the only digits dropped are .25, the preceding digit shall be left unchanged; but if the only digits dropped are .75, the preceding digit shall be raised to the next higher number.

(;As inserted on November 27, 1974)

;(38B) "Row house", one of a group of three or more houses sharing a common or party wall on one or both side lot lines.

(;As inserted on July 9, 1973, and November 27, 1974)

;(38C) "School", buildings, premises and parts thereof in which a regular course of public or private instruction is given.

(;As inserted on April 11, 1979)

(39) "Shall", shall be considered mandatory and not directory.

;(40) "Sign", any structure, device, light, letter, word, model, banner, pennant, insignia, trade flag, or representation which is designed to be seen from outside a building and which advertises or announces a use conducted or goods, products, services or facilities available, including electric signs in windows or doors, but excluding window displays of merchandise and signs incidental to the display of merchandise.

(;As amended on December 18, 1972)

(41) "Sign, area of":

- (a) For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- (b) For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols together with any background of a different color than the natural color of the building.
- ;(c) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, canopy, awning, wall or window, the area shall be considered to be that of the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.

(;As amended on December 18, 1972)

- ;(d) Only one face of a two-faced sign shall be counted in computing the area of a sign, or the total area of signs on a sign frontage or on a lot.

(;As inserted on December 18, 1972, and amended on June 7, 1974)

;(41A) "Sign, awning", a sign on or attached to a temporary retractable shelter which is supported entirely from the exterior wall of a building.

; (41B) "Sign, canopy", a sign on or attached to a permanent overhanging shelter which projects from the face of a building and is supported only partially by said building.

; (41C) "Sign design, comprehensive", a plan submitted to the Urban Design Department of the Boston Redevelopment Authority for signs and related architectural features on a sign frontage, a building front or a group of buildings.

; (41D) "Sign frontage", the length along a ground floor building front, facing a street or a private way accessible from a street, which is occupied by a separate and distinct use, as defined by Article 8; the length along a ground floor building side facing a street, which is occupied by a separate and distinct use or by the same use which occupies the front of said building.

(;As inserted on April 11, 1973)

; (41E) "Sign, marquee", a sign on or attached to a permanent overhanging shelter which projects from the face of a building and is entirely supported by said building.

(;As inserted on April 11, 1973)

; (41F) "Sign, off-premise", a sign which advertises or announces a use conducted or goods available elsewhere than on the lot on which the sign is located.

(;As inserted on April 11, 1973)

; (41G) "Sign, on-premise", a sign which advertises or announces a use conducted or goods available on the lot on which the sign is located.

(;As inserted on April 11, 1973)

; (41H) "Small Project Review", the review described in Section 80E-1.

(;As inserted on May 9, 1996)

; (42) "Story", that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above, except that a space used exclusively for the housing above the roof of mechanical equipment of the building shall not be considered to be a story if access to such space may be had only for maintenance of such equipment.

(;As amended on September 23, 1987 and March 30, 1989)

;(43) ("Story above grade", inserted on September 23, 1987, and deleted on March 30, 1989.)

;(43A) "Story, first", the lowest story of which sixty-five percent (65%) or more of the height is above grade.

(;As amended on September 23, 1987 and March 30, 1989)

;(43B) "Story, half", a story used or designed to be used for human occupancy that has a floor area measured four (4) feet vertically from the floor of not more than one-half (1/2) the area of the floor next below and in which the ceiling area or plane, measured at a height of seven and one-third (7-1/3) feet above the floor, is a minimum of one-third (1/3) the area of the floor.

(;As inserted on September 23, 1987)

(44) "Street", a public way, alley, lane, court, sidewalk and such parts of public squares and public places as form travelled parts of highways.

(45) "Street line", the line separating a street from a lot.

(46) "Structure", a combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof".

(47) ("Trailer park", deleted June 29, 1984; see 32B "Mobile home park".)

;(48) "Usable open space", space suitable for recreation, swimming pool, tennis court, gardens, or household service activities, such as clothes drying. Such space must be at least seventy-five percent open to the sky, free of automotive traffic, parking, and undue hazard, and readily accessible by all those for whom it is required.

(;As amended on April 14, 1967)

(49) "Use", as a verb, shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented or leased to be used".

(50) "Yard, front", an open space extending across the full width of the lot and lying between the front lot line and the nearest building.

(51) "Yard, rear", an open space immediately behind the rearmost main building on the lot and extending across the full width of the lot.

(52) "Yard, side", an open space along the side line of a lot, extending from the front yard line to the rear yard line; in the case of a side yard abutting on a street, extending to the rear lot line.

;SECTION 2-2. **Other Words and Phrases.** Words and phrases not defined in Section 2-1 but defined in the Commonwealth of Massachusetts State Building Code shall have the meanings given in the Commonwealth of Massachusetts State Building Code unless a contrary intention clearly appears.

(;As amended on April 11, 1979)

SECTION 2-3. **Rules of Construction.** Words importing the singular shall include the plural; and words importing the plural shall include the singular.